

SENATE AMENDMENTS

2nd Printing

By: Hernandez

H.B. No. 240

A BILL TO BE ENTITLED

1 AN ACT

2 relating to evidence in a suit to abate certain common nuisances and
3 to notice of certain arrests.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter A, Chapter 125, Civil Practice and
6 Remedies Code, is amended by adding Section 125.0017 to read as
7 follows:

8 Sec. 125.0017. NOTICE OF ARREST FOR CERTAIN ACTIVITIES. If
9 a law enforcement agency makes an arrest related to an activity
10 described by Section 125.0015(a)(6) or (7) that occurs at property
11 leased to a person operating a massage establishment as defined by
12 Section 455.001, Occupations Code, not later than the seventh day
13 after the date of the arrest, the law enforcement agency shall
14 provide written notice by certified mail to the property owner of
15 the arrest.

16 SECTION 2. Section 125.002, Civil Practice and Remedies
17 Code, is amended by adding Subsection (b-1) to read as follows:

18 (b-1) If the nuisance that is the basis of the suit brought
19 under Subsection (a) involves massage therapy or other massage
20 services that are provided in violation of Chapter 455, Occupations
21 Code, a person bringing the suit may request a landowner or landlord
22 of the place where the nuisance is allegedly maintained to provide
23 the contact information of the business or the owner of the
24 business. The landowner or landlord shall provide the requested

1 information not later than the seventh day after the date the
2 landowner or landlord receives the request.

3 SECTION 3. Section 125.004, Civil Practice and Remedies
4 Code, is amended by adding Subsection (a-1) and amending Subsection
5 (d) to read as follows:

6 (a-1) If the defendant is a landowner who leases real estate
7 to a person operating a massage establishment as defined by Section
8 455.001, Occupations Code, proof that an activity described by
9 Section 125.0015(a)(6) or (7) was committed at the massage
10 establishment after notice of an arrest was provided to the
11 landowner in accordance with Section 125.0017 is prima facie
12 evidence that the defendant knowingly tolerated the activity.

13 (d) Notwithstanding Subsections [~~Subsection~~] (a) and (a-1),
14 evidence that the defendant, the defendant's authorized
15 representative, or another person acting at the direction of the
16 defendant or the defendant's authorized representative requested
17 law enforcement or emergency assistance with respect to an activity
18 at the place where the common nuisance is allegedly maintained is
19 not admissible for the purpose of showing the defendant tolerated
20 the activity or failed to make reasonable attempts to abate the
21 activity alleged to constitute the nuisance but may be admitted for
22 other purposes, such as showing that a crime listed in Section
23 125.0015 occurred. Evidence that the defendant refused to
24 cooperate with law enforcement or emergency services with respect
25 to the activity is admissible. The posting of a sign prohibiting
26 the activity alleged is not conclusive evidence that the owner did
27 not tolerate the activity.

1 SECTION 4. The change in law made by this Act applies only
2 to a cause of action that accrues on or after the effective date of
3 this Act. A cause of action that accrues before the effective date
4 of this Act is governed by the law applicable to the cause of action
5 immediately before the effective date of this Act, and that law is
6 continued in effect for that purpose.

7 SECTION 5. This Act takes effect September 1, 2017.

ADOPTED

MAY 24 2017

Leta Sawyer
Secretary of the Senate

By: Joan Huffman

H.B. No. 240

Substitute the following for H.B. No. 240:

By: [Signature]

C.S. H.B. No. 240

A BILL TO BE ENTITLED

AN ACT

relating to evidence in a suit to abate certain common nuisances.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 125.004, Civil Practice and Remedies Code, is amended by adding Subsections (a-1), (a-2), and (e) to read as follows:

(a-1) Proof in the form of a person's arrest or the testimony of a law enforcement agent that an activity described by Section 125.0015(a)(6) or (7) is committed at a place licensed as a massage establishment under Chapter 455, Occupations Code, or advertised as offering massage therapy or massage services is prima facie evidence that the defendant knowingly tolerated the activity.

(a-2) Proof that an activity described by Section 125.0015(a)(18) is committed at a place maintained by the defendant is prima facie evidence that the defendant:

(1) knowingly tolerated the activity; and

(2) did not make a reasonable attempt to abate the activity.

(e) Evidence of a previous suit filed under this chapter that resulted in a judgment against a landowner with respect to an activity described by Section 125.0015 at the landowner's property is admissible in a subsequent suit filed under this chapter to demonstrate that the landowner:

(1) knowingly tolerated the activity; and

1 (2) did not make a reasonable attempt to abate the
2 activity.

3 SECTION 2. This Act takes effect September 1, 2017.

ADOPTED

MAY 24 2017

Patricia Spaul
Secretary of the Senate

BY:

Joan Huffman

FLOOR AMENDMENT NO. 1

1 Amend C.S.H.B. No. 240 (senate committee printing) as
2 follows:

3 (1) Add the following appropriately numbered SECTIONS to
4 the bill:

5 SECTION ____ . Subchapter A, Chapter 125, Civil Practice and
6 Remedies Code, is amended by adding Section 125.0017 to read as
7 follows:

8 Sec. 125.0017. NOTICE OF ARREST FOR CERTAIN ACTIVITIES.

9 If a law enforcement agency makes an arrest related to an
10 activity described by Section 125.0015(a)(6), (7), or (18) that
11 occurs at property leased to a person operating a massage
12 establishment as defined by Section 455.001, Occupations Code,
13 not later than the 14th day after the date of the arrest, the
14 law enforcement agency may provide written notice by certified
15 mail to each person maintaining the property of the arrest.

16 SECTION ____ . Section 125.004, Civil Practice and Remedies
17 Code, as amended by this Act, applies only to a cause of action
18 that accrues on or after the effective date of this Act. A
19 cause of action that accrues before the effective date of this
20 Act is governed by the law applicable to the cause of action
21 immediately before the effective date of this Act, and that law
22 is continued in effect for that purpose.

23 (2) In the recital to SECTION 1 of the bill amending
24 Section 125.004, Civil Practice and Remedies Code (page 1, line
25 24), between the comma and "and", insert "(a-3),".

26 (3) In the recital to SECTION 1 of the bill amending
27 Section 125.004, Civil Practice and Remedies Code (page 1, line
28 24), between "(e)" and "to", insert "and amending Subsection
29 (d)".

1 (4) In SECTION 1 of the bill, in added Section 125.004(a-
2 1), Civil Practice and Remedies Code (page 1, line 30), between
3 "services" and "is", insert "after notice of an arrest was
4 provided to the defendant in accordance with Section 125.0017".

5 (5) In SECTION 1 of the bill, in added Section 125.004(a-
6 2), Civil Practice and Remedies Code (page 1, lines 33-34),
7 between "defendant" and "is", insert "after notice of an arrest
8 was provided to the defendant in accordance with Section
9 125.0017".

10 (6) In SECTION 1 of the bill, between added Sections
11 125.004(a-2) and (e), Civil Practice and Remedies Code (page 1,
12 between lines 37 and 38), insert the following:

13 (a-3) For purposes of Subsections (a-1) and (a-2), notice
14 is only considered to be provided to the defendant seven days
15 after the postmark date of the notice provided under Section
16 125.0017.

17 (d) Notwithstanding Subsection (a), (a-1), or (a-2),
18 evidence that the defendant, the defendant's authorized
19 representative, or another person acting at the direction of the
20 defendant or the defendant's authorized representative requested
21 law enforcement or emergency assistance with respect to an
22 activity at the place where the common nuisance is allegedly
23 maintained is not admissible for the purpose of showing the
24 defendant tolerated the activity or failed to make reasonable
25 attempts to abate the activity alleged to constitute the
26 nuisance but may be admitted for other purposes, such as showing
27 that a crime listed in Section 125.0015 occurred. Evidence that
28 the defendant refused to cooperate with law enforcement or
29 emergency services with respect to the activity is admissible.
30 The posting of a sign prohibiting the activity alleged is not
31 conclusive evidence that the owner did not tolerate the

1 activity.

2 (7) Renumber the SECTIONS of the bill appropriately.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 25, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB240 by Hernandez (Relating to evidence in a suit to abate certain common nuisances.),
As Passed 2nd House

No significant fiscal implication to the State is anticipated.

The bill would amend the Civil Practice and Remedies Code to allow proof in the form of a person's arrest or the testimony of a law enforcement agent that certain common nuisances were committed at a place licensed as a massage establishment is prima facie evidence that the defendant knowingly tolerated the activity and did not make a reasonable attempt to abate the activity after notice of the arrest is provided to the defendant. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

The bill would authorize local law enforcement agencies to provide written notice by certified mail to the property owner

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, MW, GDz, FR, LBO, SLE

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 19, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB240 by Hernandez (Relating to evidence in a suit to abate certain common nuisances.),
Committee Report 2nd House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend the Civil Practice and Remedies Code to allow proof in the form of a person's arrest or the testimony of a law enforcement agent that certain common nuisances were committed at a place licensed as a massage establishment is prima facie evidence that the defendant knowingly tolerated the activity and did not make a reasonable attempt to abate the activity. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

The bill would require local law enforcement agencies to provide written notice by certified mail to the property owner

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, MW, GDz, FR, LBO, SLE

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 13, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB240 by Hernandez (Relating to evidence in a suit to abate certain common nuisances and to notice of certain arrests.), **As Engrossed**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Civil Practice and Remedies Code to authorize a person bringing a suit that concerns massage therapy or other massage services to request a landowner or landlord of the place where the nuisance is alleged to have occurred to provide the contact information of the business or the owner of the business. The bill would require a law enforcement agency making an arrest related to prostitution at a massage establishment to provide written notice by certified mail to the property owner of the arrest. The bill would also allow proof that massage services occur at an unlicensed facility to serve as evidence that the defendant knowingly tolerated the activity and that the facility is habitually used for the activity following notification to the landowner of the arrest. This estimate assumes duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

The bill would require local law enforcement agencies to provide written notice by certified mail to the property owner

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, MW, GDz, FR, LBO, SLE

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 5, 2017

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB240 by Hernandez (Relating to evidence in a suit to abate certain common nuisances.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend the Civil Practice and Remedies Code to authorize a person bringing a suit that concerns massage therapy or other massage services to request a landowner or landlord of the place where the nuisance is alleged to have occurred to provide the contact information of the business or the owner of the business. The bill would also allow proof that massage services occur at an unlicensed facility to serve as evidence that the defendant knowingly tolerated the activity and that the facility is habitually used for the activity. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, LBO, MW, GDz, SLE

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 12, 2017

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB240 by Hernandez (Relating to evidence in a suit to abate certain common nuisances.),
As Introduced

No significant fiscal implication to the State is anticipated.

The bill would amend the Civil Practice and Remedies Code to allow proof that massage services occur at an unlicensed facility to serve as evidence that the defendant knowingly tolerated the activity and that the facility is habitually used for the activity. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, SLE, MW, GDz